

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
David A. Fischhoff et al.

Application No.: 08/434,105

Confirmation No.: 2627

Filed: May 3, 1995

Art Unit: 1638

For: SYNTHETIC PLANT GENES AND  
METHOD FOR PREPARATION

Examiner: A. R. Kubelik

**INFORMATION DISCLOSURE STATEMENT (IDS)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the Applicants request that the Patent and Trademark Office consider the documents listed on the attached PTO/SB/08 during the examination process during the prosecution of this application, and make them of record so that they appear among the "References Cited" on any eventual patent. In accordance with 37 CFR 1.98(a)(2)(ii), Applicant has not submitted copies of those listed documents that are U.S. patents.

This Information Disclosure Statement is filed before the mailing date of a first Office Action on the merits as far as is known to the undersigned (37 CFR 1.97(b)(3)).


In accordance with 37 CFR 1.97, the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that any of the cited documents are "prior art" for this invention. Monsanto, the assignee of the present application, was involved in a litigation with Syngenta, the assignee of the listed patents. (Syngenta previously filed a protest against this application.) An issue in the litigation involving Syngenta's patents involved prior invention by Monsanto (Barton et al. (US 2001/0003849, of record)) vis-à-vis Syngenta. Different claims of a related Barton et al.

application were involved in an interference involving the present application. A copy of the district court decision in the litigation is also provided.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 28079/41785. A copy of this paper is enclosed.

Dated: March 15, 2007

Respectfully submitted,

By   
David A. Gass

Registration No.: 38,153  
MARSHALL, GERSTEIN & BORUN LLP  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300  
Attorney for Applicant

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Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>			<b>Complete if Known</b>		
			Application Number	08/434,105-Conf. #2627	
			Filing Date	May 3, 1995	
			First Named Inventor	David A. Fischhoff	
			Art Unit	1638	
			Examiner Name	A. R. Kubelik	
Sheet	1	of	1	Attorney Docket Number	28079/41785

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number Number-Kind Code* (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	A26	6,075,185	06-13-2000	Koziel et al.	
	A27	6,320,100	11-20-2001	Koziel et al.	
	A28	6,403,865	06-11-2002	Koziel et al.	

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code*-Number*-Kind Code* (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. \* CITE NO.: Those application(s) which are marked with an single asterisk (\*) next to the Cite No. are not supplied (under 37 CFR 1.98(a)(2)(iii)) because that application was filed after June 30, 2003 or is available in the IFW. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST 3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS					
Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.			T <sup>6</sup>
	C209	Syngenta Seeds Inc. v. Monsanto Co., 404 F. Supp.2d 594 (D. Del. 2005)			

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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